

**State of Washington  
Decision Package**

**Agency:** 310 Department of Corrections  
**Decision Package Code/Title:** AB Regulatory Compliance

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**Budget Period:** 2007-2009

**Budget Level:** M2 - Inflation and Other Rate Changes

**Recommendation Summary Text:**

The Department requests funding to meet recent changes in applicable regulatory requirements, which are governed by other state agencies, local municipalities, and the federal government.

**Agency Total**

<u>Fiscal Detail</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
<b>Operating Expenditures</b>			
001-1 - General Fund - Basic Account-State	\$1,727,000	\$1,727,000	\$3,454,000
<b>Staffing</b>			<b>Annual</b>
FTEs	<u>FY 2008</u> 27.3	<u>FY 2009</u> 27.3	<u>Average</u> 27.3

**Program 200-Institutional Services**

<u>Fiscal Detail</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
<b>Operating Expenditures</b>			
001-1 - General Fund - Basic Account-State	\$1,727,000	\$1,727,000	\$3,454,000
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**Package Description**

The Department requests funding to meet recent changes in applicable regulatory requirements, which are governed other state agencies, local municipalities, and the federal government.

**Fire Code Requirements**

County fire codes require annual fire detection/suppression system confidence testing to ensure that the system is in proper working order and that routine and preventative system maintenance occurs. Due to lack of funding, the Washington Corrections Center for Women (WCCW), Washington State Penitentiary (WSP), and Clallam Bay Corrections Center (CBCC) has not been able to meet these requirements. The Department, however, must gain compliance with these requirements. Internal analysis at WCCW and CBCC has determined that it is more cost effective to contract for this service due to a number of factors. In concluding this, the Department considered the costs associated with the necessary staff training and required certifications, as well as the liability costs the Department would assume, should we conduct the required confidence testing.

Internal analysis at WSP has determined that it would be more cost effective to have dedicated staff conduct the required confidence testing, and would be more effective and efficient, because of the size and complexity of the facility. Use of contracted services to meet the annual confidence testing requirements at WSP would cost approximately \$500,000, (\$125 per hour/per person). This includes annual inspections, monthly testing, preventative maintenance, repairs, and cleaning. The cost for hiring dedicated staff to perform these functions is approximately \$115,000 per year.

The total biennial cost to meet the fire code requirements at these three facilities is estimated at \$336,000.

#### Kitchen Hood Cleaning

Kitchen hoods and exhaust ventilation systems are required to be inspected by a properly trained qualified and certified company or persons. This is based on the National Fire Protection Association 96 Standard Ventilation Control and Fire Protection Commercial Cooking Operations 2001 Edition standards, NFPA 17 and 17A 1998 Edition. At CBCC, this requirement is being met annually, through a contractual agreement. A recent change in the contract has resulted in an increased cost. The annual cost of inspection and cleaning will increase from \$720 per year to \$12,558. The biennial cost for this requirement will be \$24,000.

#### Dock Lease

In the intra-local agreement (Ordinance No. 2004-22) with Pierce County, the Department agreed to a method of calculating inflation to allow for an increase in lease costs for usage of the dock in the city of Steilacoom. The lease costs change as of January 1 and are increased/decreased by the percentage change, if any, in the Seattle-Tacoma-Bremerton Consumer Price Index-Urban. A 2 percent inflation increase is assumed for 2007-2009 Biennium. The biennial cost for this increase will be \$6,000.

#### Marine Vessel Requirements

An additional Shipwright for the Marine Department is necessary to perform maintenance of in-water vessels, docks, ramps and floats and to serve as a relief for the one funded shipwright position. With the present staffing level in the marine department, McNeil Island Corrections Center (MICC) cannot maintain the demands of maintenance that are required to maintain compliance with the mandates and to ensure the safety of all passengers, vehicles, and the environment. This position is necessary to maintain compliance with current regulations, as well as new Coast Guard regulations, additional Department of Homeland Security requirements, and new Department of Ecology (DOE) requirements, all pertaining to vessels.

Vessels are regulated by the Coast Guard, *Coast Guard and Department of Homeland Security requirements, 33 Code of Federal Regulations (CFR) 103, 104, and 105 effective July 1, 2004 and 46 CFR and vessels certificate of inspection*. Regulations require vessels to be hauled out of the water and maintenance performed, every two years, in order to remain certified to carry passengers and operate between McNeil Island and the city of Steilacoom. MICC currently has three passenger vessels, three tugboats, and two barges that are required to be hauled out, maintained, and inspected.

Previously, a haul out and maintenance period lasted approximately 8 to 12 weeks, per vessel. These haul out and maintenance periods are now taking approximately 16 weeks per vessel, with the exception of barges. This is due additional DOE requirements, equipment, and the lack of available staff to perform this work.

The Department is currently funded for one shipwright. Because of the additional DOE requirements, this does not allow for non-emergent maintenance and/or repairs to docks, floats, ramps, and the ferry slip, simply because the shipwright's efforts must be dedicated on the haul out and maintenance of the vessel currently being worked on. New DOE requirements include:

- Training in Best Management Practices for all new shipyard staff, marine staff and inmates, with a refresher at least yearly, and each time prior to a vessel being hauled out for maintenance.
- Expanded vessel fueling requirements. All fueling will be conducted only during daylight hours except in emergencies.
- Collection and disposal of all pressure washing and boat washing waters, to ensure the water does not re-enter the waters of the state.
- Testing and maintenance of storm water drains and vaults, 5 times each year.
- Use of vacuum equipment for all sanding, chipping, and grinding and collection of these solids to prevent them from entering the water.
- Hand washing of In-water vessel cleaning and prevention of soaps and dispersants from entering the water.
- Collection and disposal of all bilge waste from machinery spaces or other spaces containing oil, hydraulic fluids, soaps and dispersants in accordance with approved Department of Ecology methods.
  - Waste must be pumped into 5-gallon jugs and transferred to 55-gallon drums and disposed of.
  - This takes approximately 10 to 12 hours weekly to perform.
- Increased record keeping for all mandatory requirements, to include water testing and test results, Best Management Practices for shipyards and vessels. The Storm Water Pollution Prevention Plan for shipyards also requires updates.
- Maintenance of a hazardous materials log for all paints, thinners, etc. DOE has requirements for usage and storage while using and how it is used for all materials such as paints, thinners, etc. These requirements are all in the approved boatyard permit and required per DOE.

These new requirements have reduced the Department's flexibility to perform the necessary maintenance of in-water vessels, docks, ramps, and floats. Currently, in the event emergency repairs are necessary, the shipwright stops working on the haul out and deals with the emergency, because the Department does not have other qualified staff to deal with emergent situations. An additional shipwright position would allow for the haul out and the performance of routine maintenance and repairs to dock floats and ramps to occur simultaneously.

#### Marine Licensing Requirements

An additional position of Marine Boat Operator is required to meet new Coast Guard regulations pertaining to licensing and to meet additional requirements by Homeland Security and DOE.

Prior to May 20, 2001, one license was required to operate, both, passenger vessels and tug boats, which are less than 100 gross tons within inland waters. This is the size and types of vessels used at McNeil Island. Presently, the Department has been fortunate to have one Marine Boat/Tug operator who is licensed for both vessels. However, at some point the operator will resign from the position and the likelihood of filling the vacant position will be greatly reduced, because of the new Coast Guard dual license requirement, 46 CFR part 10 and part 15. Currently, no interviewed applicants are licensed to operate both types of vessels, nor do they have a license for 500 tons that could be used to upgrade to a tow boat license through the towing officer assessment process. Because of the licensing requirements,

most mariners are only licensed for the type of vessel they operate and are unable to obtain the other license without documented service time and experience.

A grandfather period allowed current operators to obtain the new license, as long as the operator could document at least 90 days of towboat experience, prior to May 20, 2001. To date, all current Marine Boat/Tug Operator staff have, both, an inspected passenger boat licenses and towboat licenses. The grandfather period ends on May 20, 2006. Thereafter, to obtain a towboat license, a mariner must have a total of 18 months experience as an Apprentice Mate and complete an on-the-job training program or an approved training course. Since inmates are used as deck hands, it is not possible for a passenger boat operator to acquire the 18 months experience serving as an Apprentice Mate, in order to obtain the towboat license.

In addition to the new Coast Guard requirements above, the Department of Homeland Security has added additional Coast Guard requirements, 33 CFR Part 103, 104, and 105, in regards to training and drills. Vessel operators are now required to be trainers and train other staff and passengers in marine security and vessel safety. Weekly training is given at the Department's annual in-service training and for all new employees, as well as employees of the Special Commitment Center (SCC). Currently, the Department pays overtime to the vessel operators to conduct the training and drills.

The Department of Ecology and Washington Administrative Code (WAC) 173, have also increased requirements for vessel operators in regards to bilge waste collection and disposal, daytime fuel transfers, and the manner in which the vessels are cleaned. This drives additional overtime and increases the likelihood of fines being levied against the Department.

#### Deckhand Requirement

To comply with new and amended Federal regulations, (proposed rules) which govern access to waterfront facilities and vessels under the jurisdiction of the Coast Guard, changes will be necessary regarding accessing security procedures, identification requirements for some staff, and the use of offenders as deck hands on board the McNeil Island vessels.

The Coast Guard has proposed the requirement of a Transportation Workers Identification Credential (TWIC) for all persons who require unescorted access to secure areas of a regulated facility or vessel. The Coast Guard states that the rulemaking will enhance the security of ports by requiring background checks on persons and establishing a biometric access control system to prevent those who pose a security threat from gaining unescorted access to secure areas.

Each employee required to obtain a TWIC will undergo a back ground check and pay a fee of approximately \$139. The TWIC will require renewing every five years.

The list of major port-related personnel subject to the TWIC requirements is as follows:

- Cruise workers (land based only)
- Liquid bulk refining/processing workers
- Longshoremen
- Merchant mariner document or license holders
- Rail workers
- Shipyard workers
- Site management/Administration workers
- Truck drivers
- Vessel operations/port support workers
- Contractors/others

Dis-qualifying factors for a TWIC include:

- Conviction within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony.
- Released from incarceration within the preceding 5-year period for committing a felony.

The proposed requirement does state that “Law enforcement officials at the State or local level are not required to obtain or possess a TWIC to gain unescorted access to secure areas”. This would allow for custody positions to be excluded from the TWIC.

Offenders, however, would not meet the requirements to obtain a TWIC and, therefore, cannot be in a designated secure area unescorted, even though these offenders are classified as minimum. MICC has three areas that fall under the Marine Transportation Security Act (MTSA) and Federal Maritime Security Regulations:

- MICC receives and stores diesel fuel in bulk (in excess of 42 barrels). Fuel is received approximately eight times a year and with a storage capacity of approximately 300,000 gallons.
- MICC operates three passenger vessels that are certificated for over 150 passengers and three tug boats that are over eight meters and 600 horse power.
- MICC has passenger terminals which receive vessels.

Secure areas designated by the Coast Guard on MICC vessels include:

- Pilot house
- Engine room
- Steering and other enclosed machinery spaces
- Voids

The Coast Guard’s final decision on this proposed requirement is anticipated to occur by the end of 2006. Six months from the effective date, each facility and vessel security plan is required to be updated and approved by the Coast Guard, to include addition of the new regulations and how compliance will be met. Twelve to 18 months after the final rule is promulgated, the Coast Guard expects to have the TWIC program completed for the initial personnel, which is estimated to be 750,000 nationwide. Marine facilities and vessels will be the first priority. Other occupations will follow after the initial TWIC’s are issued.

#### Wastewater Treatment Plant Permit

An operating permit is required for the wastewater treatment plant located at CBCC. Without annual renewal of this permit the plant would need to be shut down. The annual renewal fee is increasing by 5.49 percent, or \$1,000 per year, in Fiscal Year 2007.

#### Marine Vessel Insurance Premium

The Department acquires insurance through the Office of Financial Management to mitigate the state’s liability in operating the vessels and boats for the passenger and barge services, between McNeil Island and the city of Steilacoom. The Department estimates that the vessel premium and Master Marine premium will increase by \$50,000, annually.

## **Narrative Justification and Impact Statement**

### ***How contributes to strategic plan:***

This request is critical to agency activities, the strategic plan, and statewide results. The request ensures that the Department has the necessary resources to maintain current levels of service and performance.

This request is required to sustain the agency activities *Confine Convicted Adults in State Prisons* and *Reentry Services for Adult Offenders*. The resources identified will be directed to support the agency objective to protect staff. The strategy is to maintain facilities, offices, and equipment. These objectives and strategies move the Department closer to meeting its high-level organizational goals of maintaining safe work environments for staff. These high-level goals are intermediate outcomes and assist the Department in achieve statewide results that will reduce re-offense behavior and improve the safety of people and property.

### **Performance Measure Detail**

No measures were submitted for this package.

### ***Reason for change:***

#### **Fire Code Requirements and Kitchen Hood Cleaning**

Increased pressure from local government in meeting these unfunded requirements. The Department was able to absorb these requirements in the past, but due to increased charges for this service as well as increased costs for other operating expenses, the Department is unable to absorb this cost.

#### **Dock Lease**

Current contract allows for an inflationary increase.

#### **Marine Vessel Requirements and Marine Licensing Requirements**

Additional Coast Guard, Department of Homeland Security, and DOE requirements.

#### **Deckhand Requirement**

Proposed change by the Coast Guard that would limit personnel allowed to access secure areas of a regulated facility or vessel, for the Department of Corrections, this applies to offenders.

#### **Wastewater Treatment Plant**

Increase in annual permit to operate at CBCC.

#### **Marine Vessel Insurance Premium**

Estimated increase in vessel insurance premium at MICC.

### ***Impact on clients and services:***

Clients and services would be impacted if these items are not funded. Services in other areas will need to be reduced to account for these mandatory expenditures.

### ***Impact on other state programs:***

N/A

### ***Relationship to capital budget:***

These items do not impact the capital budget.

### ***Required changes to existing RCW, WAC, contract, or plan:***

N/A

***Alternatives explored by agency:***

The Department has not considered alternatives for the *Fire Code Requirements, Kitchen Hood Cleaning, Wastewater Treatment Plant Permit, Dock Lease, and Marine Vessel Insurance Premium.*

The Department has used overtime in the past to address the need for a second shipwright position and additional Boat/Tug Operator, but has been unable to meet demands caused by new regulations and requirements.

The Department has requested an exception to the new deckhand requirement, based on the custody level of the offenders currently assigned to work in the marine department. The Department is also discussing the utilization of custody officers to oversee the offenders when these areas need accessed, which would reduce the request.

***Budget impacts in future biennia:***

Funds will be required in future biennia for all items requested.

***Distinction between one-time and ongoing costs:***

All costs are considered ongoing costs. One-time costs are requested in the Fiscal Year 2007 Supplemental Operating Budget request.

***Effects of non-funding:***

*Fire Code Requirements and Kitchen Hood Cleaning*

The Department does not believe it can absorb these costs, as they are significant increases. To do so, the Department would be required to alter offender programming or implement hiring delays and equipment delays. The Department could also face additional fines.

*Dock Lease*

The Department cannot absorb these significant increases. If the funding was not provided the Department would be required to alter offender programming or implement hiring delays and equipment delays.

*Marine Vessel Requirements and Marine Licensing Requirements*

Department staff would need to continue working overtime to meet the new regulations. Overtime is costly, both in terms of dollars and impact on staff. Additionally, there may be an impact to the transportation to and from the island, as boats will be required to be hauled out for longer period of times and the ability to operate the vessels with qualified staff will be greatly diminished, leading to boat delays and/or run cancellations.

*Deckhand Requirement*

The Department cannot absorb these costs, as they are significant increases. To do so, the Department would be required to alter offender programming or implement hiring delays and equipment delays.

*Wastewater Treatment Plant Permit*

The Department cannot absorb these costs, as they are significant increases. To do so, the Department would be required to alter offender programming or implement hiring delays and equipment delays.

*Marine Vessel Insurance Premium*

The Department does not believe it can absorb these costs, as they are significant increases. To do so, the Department would be required to alter offender programming or implement hiring delays and equipment delays.

**Expenditure Calculations and Assumptions:**

**Fire Code Requirements and Kitchen Hood Cleaning**

Expenditures are based on vendor price quotes.

**Dock Lease**

Expenditures are based on a 2% increase of current expenses for the lease.

**Marine Vessel Requirements and Marine Licensing Requirements**

Expenditures are based on one Shipwright Supervisor position and one Boat/Tug Operator position. Each position includes additional funds for operating expenses and training costs associated with each position.

**Deckhand Requirement**

Expenditures are based on one Deckhand Supervisor and 22.3 Deckhand positions. Each position includes additional funds for operating expenses associated with each position and startup funds.

**Wastewater Treatment Plant Permit**

The Expenditures are based on current expenditures, plus the increase of 5.49 percent.

**Marine Vessel Insurance Premium**

The increased expenditure is based on information provided by the Department of Correction's Risk Management Department and the Office of Financial Management –Risk Management Division.

<b><u>Object Detail</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>	<b><u>Total</u></b>
A Salaries and Wages	\$1,131,000	\$1,131,000	\$2,262,000
B Employee Benefits	\$428,000	\$428,000	\$856,000
E Goods and Services	\$151,000	\$151,000	\$302,000
G Travel	\$1,000	\$1,000	\$2,000
J Capital Outlays	\$4,000	\$4,000	\$8,000
N Grants, Benefits, and Client Services	\$12,000	\$12,000	\$24,000
<b>Total Objects</b>	<b>\$1,727,000</b>	<b>\$1,727,000</b>	<b>\$3,454,000</b>